

April 29, 2013

**VIA ECFS**

Chairman Julius Genachowski  
Commissioner Robert McDowell  
Commissioner Mignon Clyburn  
Commissioner Jessica Rosenworcel  
Commissioner Ajit Pai  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Re: *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket No. 03-123; Structure and Practices of the Video Relay Service, CG Docket No. 10-51*

Dear Chairman Genachowski and Commissioners McDowell, Clyburn, Rosenworcel, and Pai:

Convo Communications, LLC (“Convo”), CSDVRS, LLC (d/b/a “ZVRS”) and Hancock, Jahn, Lee & Puckett, LLC (d/b/a Communication Axxess Ability Group, “CAAG”) (Convo, ZVRS and CAAG collectively, “Competitive Providers”) hereby jointly submit in the above-referenced proceedings their consensus view that it is absolutely essential for the Federal Communications Commission to include in any forthcoming order a requirement to transition to off-the-shelf hardware to access video relay service (“VRS”) within a synchronized time period.<sup>1</sup>

In response to the Commission’s *Public Notice*,<sup>2</sup> the Commission received comments indicating wide agreement that the lack of interoperability and portability have caused VRS users to become “locked in” and that the VRS access technology standards are insufficiently developed to facilitate VRS users’ access to off-the-shelf technology to ensure that providers have a “real opportunity to compete.”<sup>3</sup> Pursuant to its statutory mandate to “ensure” that VRS is

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<sup>1</sup> This letter follows Competitive Providers’ April 19, 2012 joint letter, which urged the Commission to refrain from further reducing at this time the VRS rates paid to non-dominant providers to preserve the public interest benefits of service-quality competition and the availability to the deaf and hard of hearing community of a choice of VRS providers. *See* Letter from Competitive Providers, CG Docket Nos. 10-51 & 03-123 (filed Apr. 19, 2013). Commission action as requested in this letter also will further the public interest benefits of service-quality and will enable Competitive Providers to gain scale and lower their costs per minute.

<sup>2</sup> *Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Further Notice of Proposed Rulemaking, 26 FCC Rcd 5545 (2011) (“*Further Notice*”).

<sup>3</sup> *See e.g.*, Comments of Deaf and Hard of Hearing Consumer Advocacy Network, *et al.*, CG Dockets Nos. 03-123 & 10-51, at 14 (filed Mar. 9, 2012) (“Consumer Groups Comments”) (“The Consumer Groups agree with the Commission that ‘all VRS access technology hardware used to make compensable VRS calls be “off-the-shelf[.]”’ (quoting *Further Notice*, ¶ 48); *see also* Notice of *Ex Parte* Meeting of

“available, to the extent possible and in the most efficient manner,”<sup>4</sup> the Commission has the authority and obligation to eradicate these obstructions by regulating VRS access technology hardware. Consumer groups have expressly agreed with the Commission that “all VRS access technology hardware used to make compensable VRS calls be ‘off-the-shelf’” to eliminate barriers to the “availability” of VRS, and “reduc[e] VRS user lock in.”<sup>5</sup>

The videophones (“VPs”) utilized for VRS today are overwhelmingly proprietary, rather than off-the-shelf, hardware. This reality sabotages interoperability. In particular, the dominant provider, Sorenson Communications (“Sorenson”), has saturated the VRS market with its proprietary VP200 hardware product. Sorenson utilizes the proprietary features and functions of such devices to promote a closed VRS network. The record has made it clear that Sorenson’s devices are not fully interoperable with VRS access technologies, including, VRS products that leverage off-the-shelf hardware.<sup>6</sup> Ultimately, a closed VRS network harms deaf and hard of hearing consumers.<sup>7</sup> Further, Sorenson’s use of proprietary technology unacceptably diminishes consumer choice of VRS access products. This is especially egregious because VRS is a fully government-regulated service.

To encourage the VRS industry’s rapid transition to off-the-shelf VP access hardware, the Commission should define “off-the-shelf” to mean “readily available in the open market with full features and functions at fair and open market pricing.”<sup>8</sup> Off-the-shelf hardware is universally available to VRS users and does not impose competitive constraints based on its features and functions. Therefore, when the Commission successfully transitions the VRS industry to the use of off-the-shelf hardware for VRS, VRS providers will compete on quality of

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Telecommunications for the Deaf and Hard of Hearing, Inc., *et al.*, CG Docket Nos. 10-51 & 03-123 (filed Apr. 11, 2013) (“Consumer Groups Further Comments”).

<sup>4</sup> 47 U.S.C. § 225(d)(3).

<sup>5</sup> Consumer Groups Further Comments at 14

<sup>6</sup> Notice of *Ex Parte* of CSDVRS, LLC, CG Docket No. 10-51 (filed Dec. 5, 2011); Letter of Gallaudet University’s Technology Access Program, CG Docket Nos. 03-123 & 10-51 (filed Aug. 9, 2012). Sorenson apparently has chosen to not make the VP200 readily available in the open market.

<sup>7</sup> Competitive Providers have emphasized the importance of adopting off-the-shelf technologies as a way to reduce user lock-in. *See e.g.*, Comments of Convo Communications, LLC, CG Docket Nos. 10-51 & 03-123, at 20-23 (filed Mar. 9, 2012); Comments of CSDVRS, LLC, CG Docket Nos. 10-51 & 03-123 (filed Nov. 14, 2012) (“Comments of CSDVRS”); Comments of CSDVRS, LLC., CG Docket Nos. 10-51 & 03-123 (filed Mar. 9, 2012); *see also* Comments on the Application of New and Emerging Technologies for Video Relay Service Use of Convo Communications, LLC, CG Docket Nos. 10-51 & 03-123, at 1 (filed Apr. 1, 2011) (“The greatest opportunity for functional equivalence in VRS lies in leveraging frequently-refreshed hardware that can be bought commercially...”).

<sup>8</sup> For example, products such as those from Cisco, Polycom, or Apple are readily available on the open market to VRS providers and consumers.

service, rather than through the anti-competitive practice of locking in customers using proprietary hardware.<sup>9</sup>

Sorenson has chosen not to make its VPs readily available in the open market, even refusing access to the products for interoperability testing. Subjecting the deaf community to proprietary hardware is simply unfair to consumers of VRS because it perpetuates a lack of interoperability and portability. Further, due to the challenge of establishing interoperability with the pervasive and proprietary Sorenson hardware, other VRS providers effectively are limited in their ability to adopt off-the-shelf hardware. Thus, the use of proprietary hardware thwarts the forward progress in communications and technology that can be accomplished using state-of-the-art off-the-shelf hardware. We urge the Commission to stop funding this closed network in a new VRS market by including in the TRS Order clear and concise language which effectuates a transition to off-the-shelf equipment.

Specifically, to transition to off-the-shelf VRS access hardware, which will lower VRS costs, enhance competition, and benefit customers, the Commission should not reimburse VRS providers that use proprietary hardware that is unavailable on the open market. In addition, the Commission should clearly define “off-the-shelf” equipment in the manner described above. This would allow VRS consumers and providers to purchase such access hardware at a fair market price without any limitations to its features, functions, and interoperability.

Any successful use of a reference or operational platform in a new VRS market will depend on the transition of the VRS industry to off-the-shelf equipment to ensure that VRS remains available to everyone. The transition to off-the-shelf hardware will lead to more and better equipment options that consumers can independently acquire. This will enable users to choose their VRS hardware based on pro-competitive metrics rather than being locked into using a single VRS provider. This is a simple and easy solution to a problem that has hurt the deaf community, and it is time for action. The savings to the Commission if off-the-shelf hardware becomes standard within the VRS industry will be significant.<sup>10</sup> Further, a Commission-mandated transition to off-the shelf hardware will provide VRS users with a consumer-directed and self-determined telecommunication experience in the true spirit of the Americans with Disabilities Act.

Accordingly, the Competitive Providers urge the Commission to include in any order that it adopts in this proceeding a requirement that all VRS providers, including Sorenson, transition to off-the-shelf hardware.

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<sup>9</sup> The deaf and hard of hearing community has greatly benefited from a variety of new products for video connectivity, including smartphones and tablets. In addition, the upcoming introduction of smart TVs with built-in webcams promises to bring additional opportunities.

<sup>10</sup> See *e.g.*, RLSA’s Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate, CG Docket No. 03-123, at Exhibit 2 (filed Apr. 30, 2012).

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